

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, OCTOBER 26, 2009**

The City-County Council of Indianapolis, Marion County, Indiana, the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened in regular concurrent sessions in the Council Chamber of the City-County Building at 7:01 p.m. on Monday, October 26, 2009, with Councillor Cockrum presiding.

Councillor Moriarty Adams led the opening prayer and invited all present to join her in the Pledge of Allegiance to the Flag.

ROLL CALL

The President instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

27 PRESENT: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Plowman, Sanders, Scales, Smith, Speedy, Vaughn
2 ABSENT: Minton-McNeill, Pfisterer

A quorum of twenty-seven members being present, the President called the meeting to order.

INTRODUCTION OF GUESTS AND VISITORS

Councillor McQuillen recognized long-time community activist Dick Longworth. Councillor Nytes recognized arts supporter Bruce Hedrick.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE
COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND
MARION COUNTY, INDIANA

Journal of the City-County Council

Ladies And Gentlemen :

You are hereby notified the REGULAR MEETINGS of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Monday, October 26, 2009, at 7:00 p.m., the purpose of such MEETINGS being to conduct any and all business that may properly come before regular meetings of the Councils.

Respectfully,
s/Bob Cockrum
President, City-County Council

October 6, 2009

TO PRESIDENT COCKRUM AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

Pursuant to the laws of the State of Indiana, I caused to be published in the *Court & Commercial Record* on Wednesday, October 7, 2009 and in the *Indianapolis Star* on Thursday, October 8, 2009, a copy of a Notice of Public Hearing on Proposal No. 373, 2009, said hearing to be held on Monday, October 26, 2009, at 7:00 p.m. in the City-County Building.

s/Respectfully,
Melissa Thompson

October 16, 2009

TO PRESIDENT COCKRUM AND MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

Ladies and Gentlemen:

I have approved with my signature and delivered this day to the Clerk of the City-County Council, Melissa Thompson, the following ordinances:

FISCAL ORDINANCE NO. 32, 2009 – adopts the annual budget for the Health and Hospital Corporation for 2010

FISCAL ORDINANCE NO. 33, 2009 – adopts the annual budget for the Indianapolis Public Transportation Corporation (IndyGo) for 2010

FISCAL ORDINANCE NO. 34, 2009 – adopts the annual budget for the Indianapolis-Marion County Public Library for 2010

FISCAL ORDINANCE NO. 36, 2009 – approves an additional appropriation of \$600,000 in the 2009 Budget of the Department of Metropolitan Development, Office of Code Enforcement (Consolidated County Fund) to finance the continued operations of the High Weeds and Grass program

FISCAL ORDINANCE NO. 37, 2009 - adopts the annual budget for the Ben Davis Conservancy District for 2010

GENERAL ORDINANCE NO. 103, 2009 – amends the Code regarding residency requirements for employees of the City and County

GENERAL ORDINANCE NO. 104, 2009 – amends the Code to clarify provisions regarding the Indianapolis Fire Department and to reflect the prevailing operation of the department

GENERAL ORDINANCE NO. 105, 2009 - establishes a 25 mile per hour speed limit on sections of Burgess Avenue and Julian Avenue (District 21)

SPECIAL RESOLUTION NO. 34, 2009 – recognizes R. Elizabeth Odle

SPECIAL RESOLUTION NO. 35, 2009 – recognizes Reverend Father Boniface Hardin

SPECIAL RESOLUTION NO. 36, 2009 – recognizes Ronald Brown

SPECIAL RESOLUTION NO. 37, 2009 – urges a parking meter blackout to encourage veterans and citizens to observe the November 11, 2009 Veterans Day activities

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SPECIAL RESOLUTION NO. 38, 2009 - reviews the 2010 tax rates, tax levies and budgets of the Towns of Warren Park and Spring Hill, and adopts recommendations with respect thereto

s/Respectfully,
Gregory A. Ballard, Mayor

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

APPROVAL OF THE JOURNAL

The President called for additions or corrections to the Journal of October 5, 2009. There being no additions or corrections, the minutes were approved as distributed.

PRESENTATION OF PETITIONS, MEMORIALS, SPECIAL RESOLUTIONS, AND COUNCIL RESOLUTIONS

PROPOSAL NO. 398, 2009. The proposal, sponsored by Councillors Hunter and Mansfield, recognizes Cory SerVaas, M.D., for her efforts to educate about and advocate in support of smoke-free work environments for all workers and reduce the serious burden caused by tobacco. Councillor Hunter read the resolution and presented Dr. SerVaas' daughter Joan with a copy of the document and Council pin. Ms. SerVaas thanked the Council for the recognition. Councillor Hunter moved, seconded by Councillor Mansfield, for adoption. Proposal No. 398, 2009 was adopted by a voice vote.

Proposal No. 398, 2009 was retitled SPECIAL RESOLUTION NO. 39, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 39, 2009

A SPECIAL RESOLUTION recognizing Cory SerVaas, M.D., for her efforts to advocate in support of smoke-free work environments for all workers, reduce the toll of tobacco, and raise a smoke-free generation.

WHEREAS, Dr. Cory SerVaas is a physician, journalist, editor, and publisher who has been a longtime champion of eliminating exposure to secondhand smoke and reducing the serious burden tobacco causes; and

WHEREAS, Dr. Cory SerVaas has been an ardent and vocal advocate promoting smoke-free work environments and a champion of efforts to eliminate workplace exposure to secondhand smoke to protect workers and the public from the well-known, long-established and serious health hazards caused by secondhand smoke; and

WHEREAS, Dr. Cory SerVaas served as editor of *The Saturday Evening Post*, headquartered in Indianapolis, from 1974 to 2008; and

WHEREAS, *The Saturday Evening Post* magazine, headquartered in Indianapolis, is America's oldest magazine, tracing its roots back to its inception by publisher Benjamin Franklin in 1728; and

WHEREAS, with a current circulation of more than 350,000 readers and a readership of more than 3 million, today's *Saturday Evening Post* addresses the current physical, mental, and spiritual health of the nation and features articles about the latest advances in medicine and health, while nourishing the soul through insightful discussions about topics important to Americans; and

WHEREAS, the *Post's* current focus reflects the mission of the Saturday Evening Post Society, the 501(c)(3) nonprofit organization that publishes the magazine; and

WHEREAS, the Saturday Evening Post Society was founded by Dr. Cory SerVaas in 1976; and

WHEREAS, the mission of the Saturday Evening Post Society is to present in-depth, innovative ideas and features that inform, engage, entertain, and inspire readers to embrace a proactive approach to physical, mental, and spiritual health. The *Post's* focus on health and wellness reflects the interests of Publisher Emeritus, Cory SerVaas, M.D.; and

WHEREAS, with a passion for prevention and health care education, Dr. SerVaas re-positioned *The Saturday Evening Post* to serve the consumer, providing them with easy-to-read, cutting-edge medical and health information; and

WHEREAS, Dr. SerVaas sought out and recognized leaders throughout the country who had taken steps to advocate for the position of nonsmokers' rights and smoke-free workplaces, awarding the prestigious Benjamin Franklin Award from the Saturday Evening Post Society to those who took steps to aid the cause, including key nonsmokers' rights advocates and major employers who eliminated secondhand smoke exposure in all enclosed workplaces; and

WHEREAS, throughout Dr. Cory SerVaas' career as the editor of the *Post*, she constantly searched for ways to empower readers with tools of prevention, particularly eliminating exposure to secondhand smoke and helping prevent tobacco use; and

WHEREAS, Dr. Cory SerVaas has served as a key advisor to our nation's and state's leaders, including as member of the Presidential Council on Physical Fitness and Sports, was an advisor to President Ronald Reagan on health issues, and has been awarded a Sagamore of the Wabash; and

WHEREAS, *The Saturday Evening Post*, under Dr. SerVaas' leadership, was one of the first major national magazines to refuse and reject tobacco advertising starting in 1984; and

WHEREAS, Dr. Cory SerVaas has worked to educate and promote a smoke-free generation through the Society's other affiliated children's publications, including *Jack, Turtle, and Jill* and *Humpty Dumpty* magazines; and

WHEREAS, Dr. SerVaas used her medical columns, newsletters, and magazine articles to interview and bring forward the newest and best information about the health hazards of secondhand smoke and tobacco use, including a published interview with then-Surgeon General C. Everett Koop that highlighted the serious health hazards caused by secondhand smoke to adults in workplaces back in 1985, almost a year before the groundbreaking 1986 Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke*; and

WHEREAS, graduated from Indiana University School of Medicine and has five children with husband Beurt SerVaas, M.D., and has been a leading light in Indianapolis, throughout Indiana, and nationwide;
now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Dr. Cory SerVaas for her contributions to the community through her tireless and dedicated efforts to educate people about the health hazards of secondhand smoke, reduce tobacco use, and advocate for smoke-free work environments for all employees.

SECTION 2. The Indianapolis City-County Council commends Dr. Cory SerVaas for her service and counsel to national, state, and city policymakers throughout her career;

SECTION 3. The Indianapolis City-County Council proudly extends its appreciation and gratitude to Dr. Cory SerVaas for her many contributions and wishes her and her family continued success in all future endeavors.

SECTION 4. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 5. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Councillor Hunter asked for consent to vote on Proposal Nos. 399 and 400, 2009 together. Consent was given.

PROPOSAL NO. 399, 2009. The proposal, sponsored by Councillors Hunter and Speedy, recognizes John Spencer Kennedy on achieving the rank of Eagle Scout. PROPOSAL NO. 400, 2009. The proposal, sponsored by Councillors Hunter and Speedy, recognizes Ryne James Friederick on achieving the rank of Eagle Scout. Councillors Hunter and Speedy read the proposals and presented Mr. Kennedy and Mr. Friedrick with copies of the documents and Council pins. Assistant Scout Master Jerry Smith thanked the Council for the recognition. Councillor Hunter moved, seconded by Councillor Speedy, for adoption. Proposal Nos. 399 and 400, 2009 were adopted by a unanimous voice vote.

Proposal No. 399, 2009 was retitled SPECIAL RESOLUTION NO. 40, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 40, 2009

A SPECIAL RESOLUTION recognizing John Spencer Kennedy on achieving the rank of Eagle Scout.

WHEREAS, John began his scouting career nine years ago as a Cub Scout in 2nd grade with Troop 8; and

WHEREAS, while in the Scouts, John earned the Firecrafter Honor award and the Ad-altale-dei (the Lord's table) award; and

WHEREAS, John served as a patrol leader for his troop and throughout his scouting career, he earned 23 merit badges, two more than the Eagle Scout requires; and

WHEREAS, in addition, last year John received the President's Academic Excellence award for being in the top 10% of his class, a Scholarship Athletic award for outstanding achievement, and a \$2,000 annual scholarship to Seccina High School from Lady of Lourdes for being number one in his class; and

WHEREAS, to become Eagle Scout, John created an outdoor amphitheatre, which he accomplished by doing Boy Scout approved fundraisers to purchase supplies; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes John Spencer Kennedy for achieving the high rank of Eagle Scout.

SECTION 2. The Council congratulates John on this great accomplishment and wishes him continued success in all future endeavors.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

Proposal No. 400, 2009 was retitled SPECIAL RESOLUTION NO. 41, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 41, 2009

A SPECIAL RESOLUTION recognizing Ryne James Friederick on achieving the rank of Eagle Scout.

WHEREAS, Ryne began his scouting career 11 years ago with Troop 8. He has been a Tiger Cub, Cub Scout, Webelo Scout, Boy Scout and now Eagle Scout; and

WHEREAS, Ryne earned a multitude of awards during his scouting experience, served his troop in leadership positions, such as senior patrol leader and quarter master, and earned 27 merit badges throughout his scouting career; and

WHEREAS, to achieve the rank of Eagle Scout, Ryne restored the 7,000 pound, six-foot bell at Our Lady of the most Holy Rosary Church. He did this by sanding all the finish off of the bell and restoring it with protective coating; and

WHEREAS, Ryne spent several months and over 200 service hours completing his project to become Eagle Scout; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Indianapolis City-County Council proudly recognizes Ryne James Friederick for achieving the high rank of Eagle Scout.

SECTION 2. The Council congratulates Ryne on this great accomplishment and wishes him continued success in all future endeavors.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 401, 2009. The proposal, sponsored by Councillor Lutz, recognizes Dr. Terry Thompson on being chosen as the 2010 Indiana Superintendent of the Year. Councillor Lutz read the resolution and presented Dr. Thompson with a copy of the document and a Council pin. Dr. Thompson thanked the Council for the recognition. Councillor Lutz moved, seconded by Councillor McHenry, for adoption. Proposal No. 401, 2009 was adopted by a unanimous voice vote.

Proposal No. 401, 2009 was retitled SPECIAL RESOLUTION NO. 42, 2009, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 42, 2009

A SPECIAL RESOLUTION recognizing Dr. Terry Thompson.

WHEREAS, Dr. Thompson is a graduate of St. Francis University and earned his Education Doctorate and Education Specialist degrees from Ball State University; and

WHEREAS, Dr. Thompson is the superintendent of the Metropolitan School District of Wayne Township, where he has transformed the township into one of the most highly effective school districts in the nation; and

WHEREAS, under Dr. Thompson's leadership, the district has launched an early-college high school, implemented 26 different advanced placement (AP) courses, opened a central preschool center, added an International Baccalaureate (IB) program, and became the host school to an exemplary career center; and

WHEREAS, in addition, Dr. Thompson implemented the Help One Student to Succeed (HOSTS) program in Wayne Township six years ago. This program enhances the reading skills of elementary students with more than 1,000 volunteer mentors, including Dr. Thompson, working with the students to build confidence and enhance reading skills; and

WHEREAS, the students in the Wayne Township school district earned 8,000 college credits last year, 7,900 of which were at no cost to students, and the district operates a large after-hours high school, as well as staffs 17 community locations where more than 900 people earn a GED each year; and

WHEREAS, Dr. Thompson was chosen as the 2010 Indiana Superintendent of the Year by the Indiana Association of Public School Superintendents. He was selected from seven superintendents who were named District Superintendent of the Year; and

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WHEREAS, as the 2010 Indiana Superintendent of the Year, Dr. Thompson becomes Indiana's nominee for the American Association of School Administrators' National Superintendent of the Year Award; now, therefore:

**BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:**

SECTION 1. The Indianapolis City-County Council proudly recognizes Dr. Terry Thompson on his creative approach to education and ensuring that everyone in his district has an opportunity to learn.

SECTION 2. The Council congratulates Dr. Thompson on being named the 2010 Indiana Superintendent of the Year.

SECTION 3. The Mayor is invited to join in this resolution by affixing his signature hereto.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

PROPOSAL NO. 378, 2009. Councillor Lutz reported that the Rules and Public Policy Committee heard Proposal No. 378, 2009 on October 13, 2009. The proposal, sponsored by Councillor Cockrum, FedEx Express operations and the City of Indianapolis. By a 5-1 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

Councillor Lutz said that since the committee meeting, representatives from United Parcel Service (UPS) contacted him wishing to be heard on the matter. President Cockrum agreed and said that he feels it is important to let both FedEx and UPS representatives make a presentation before the committee.

Councillor Lutz moved, seconded by Councillor Cardwell, to return Proposal No. 378, 2009 to committee. Proposal No. 378, 2009 was returned to committee by a unanimous voice vote.

INTRODUCTION OF PROPOSALS

PROPOSAL NO. 383, 2009. Introduced by Councillor Nytes. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an appropriation of \$362,000 in the 2009 Budget of the Department of Metropolitan Development (State Grants Fund) to fund capital and operational expenditures incurred by businesses within the BioCrossroads Certified Technology Park (CTP), financed by a Technology Development Grant from the Indiana Economic Development Corporation (IEDC)"; and the President referred it to the Metropolitan Development Committee.

PROPOSAL NO. 384, 2009. Introduced by Councillors Moriarty Adams and Vaughn. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an appropriation of \$38,381 in the 2009 Budget of the Marion County Community Corrections Agency (Federal Grants Fund) to pay for three staff positions and related supplies, equipment and contractual services for a Technical Rules Violation program, financed by American Recovery and Reinvestment Act (ARRA) federal justice assistance grant funds awarded by the Indiana Criminal Justice Institute"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 385, 2009. Introduced by Councillors Scales and Brown. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an appropriation of \$34,100 in the 2009 Budget of the Marion County Coroner (Federal Grants Fund) to fund partial salaries of two Deputy Coroner positions, the purchase of a scanner, digital cameras and autopsy

tools, and transcription services"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 386, 2009. Introduced by Councillors Vaughn and Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a Fiscal Ordinance which approves an appropriation of \$92,485 in the 2009 Budget of the Marion County Sheriff (Medical Care for Inmates Fund) to pay for prescription drugs used in treating inmates, financed by revenues collected from health care and prescription drug co-payments by inmates"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 387, 2009. Introduced by Councillors Vaughn and Moriarty Adams. The Clerk read the proposal entitled: "A Proposal for a General Resolution which confirms the approval of the restatement of the Marion County Sheriff's Department Personnel Benefit Plan to reflect the consolidation of the county police force of the Marion County Sheriff's Department and the Indianapolis Police Department into the Indianapolis Metropolitan Police Department"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 388, 2009. Introduced by Councillor Cockrum. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which amends the Code to make technical corrections to the description of the fire special service district to reflect the consolidation of certain township fire departments into the Indianapolis Fire Department"; and the President referred it to the Public Safety and Criminal Justice Committee.

PROPOSAL NO. 389, 2009. Introduced by Councillor Lewis. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls in Sections 1 and 2 of the Morningside subdivision (District 7)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 390, 2009. Introduced by Councillor Lewis. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls in Section 2 of the Lakeside Manor West subdivision (District 7)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 391, 2009. Introduced by Councillor Cockrum. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes intersection controls in the Bluff View Meadows South subdivision (District 22)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 392, 2009. Introduced by Councillor Nytes. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at the intersection of 20th Street and Broadway Street (District 9)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 393, 2009. Introduced by Councillor McHenry. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a multi-way stop at the intersection of Dunsany Lane and Inland Drive East (District 6)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 394, 2009. Introduced by Councillor Minton McNeill. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes a change in parking

meters on Illinois Street between Washington Street and 16th Street (District 15)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 395, 2009. Introduced by Councillor Minton McNeill. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes changes in the parking restrictions in the area of IUPUI (District 15)"; and the President referred it to the Public Works Committee.

PROPOSAL NO. 396, 2009. Introduced by Councillor Minton McNeill. The Clerk read the proposal entitled: "A Proposal for a General Ordinance which authorizes 2-hour parking meters on Ohio Street between East Street and Park Avenue (District 15)"; and the President referred it to the Public Works Committee.

SPECIAL ORDERS - PRIORITY BUSINESS

PROPOSAL NOS. 402-403, 2009. Introduced by Councillor Smith. Proposal Nos. 402-403, 2009 are proposals for Rezoning Ordinances certified by the Metropolitan Development Commission on October 16, 2009. The President called for any motions for public hearings on any of those zoning maps changes. There being no motions for public hearings, the proposed ordinances, pursuant to IC 36-7-4-608, took effect as if adopted by the City-County Council, were retitled for identification as REZONING ORDINANCE NOS. 88-89, 2009, the original copies of which ordinances are on file with the Metropolitan Development Commission, which were certified as follows:

REZONING ORDINANCE NO. 88, 2009.

2009-ZON-050

716 RUSSELL AVENUE (*Approximate Address*)

INDIANAPOLIS, CENTER TOWNSHIP

COUNCIL DISTRICT # 19

RICHARD LEE AND HELEN MARTHA THOMPSON, by David Kingen, requests Rezoning of 0.14 acre, from the D-3 (RC) District, to the CBD-2 (RC) classification to provide for Central Business District – Two uses.

REZONING ORDINANCE NO. 89, 2009.

2009-ZON-817

4404 EAST 10TH STREET AND 1019 NORTH EUCLID AVENUE

(*Approximate Addresses*), INDIANAPOLIS, CENTER TOWNSHIP

COUNCIL DISTRICT # 10

BEN GINGRICH requests REZONING of 0.34 acre, from the C-3 and D-5 Districts, to the C-3 classification to provide for neighborhood commercial uses.

SPECIAL ORDERS - PUBLIC HEARING

PROPOSAL NO. 373, 2009. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 373, 2009 on October 7, 2009. The proposal, sponsored by Councillors Moriarty Adams and Pfisterer, approves a transfer and appropriation of \$690,241 in the 2009 Budget of the Marion Superior Court (County General, Cumulative Capital Improvement, Alternative Dispute Resolution and County Grants Funds) to fund increased mediation costs, additional personnel costs, payroll software, Guardian Ad Litem costs, and a court recording system. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass.

Councillor Sanders asked with regard to children in need of services (CHINS), if this is a cost the county still incurs, or if it gets reimbursed by the state. Councillor Vaughn said that the county

pays part of the cost, and the state pays a part during this transition period, but the courts may make some changes to the way that is billed to make it the county's responsibility. Councillor Sanders asked how this will affect the 2010 budget. Councillor Vaughn said that he is meeting with several members of those making these decisions, and the costs will be covered through the administrator's budget in 2010 and built into the budget going forward.

President Cockrum called for public testimony at 7:32 p.m.

Larry Vaughn, resident, stated that this is a problem that resulted from the closing of the Marion County Guardian Home. Councillor Vaughn said that this has nothing to do with the Guardian Home.

There being no further testimony, Councillor Vaughn moved, seconded by Councillor Moriarty Adams, for adoption. Proposal No. 373, 2009 was adopted on the following roll call vote; viz:

27 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Lutz, Mahern (B), Mahern (D), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Oliver, Plowman, Sanders, Scales, Smith, Speedy, Vaughn
0 NAYS:
2 ABSENT: Minton-McNeill, Pfisterer

Proposal No. 373, 2009 was retitled FISCAL ORDINANCE NO. 38, 2009, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 38, 2009

A FISCAL ORDINANCE amending the City-County Annual Budget for 2009 (City-County Fiscal Ordinance No. 54, 2008) by appropriating Thirty-One Thousand Five Hundred Dollars (\$31,500) in the Alternative Dispute Resolution Fund, Fifty-Two Thousand Dollars (\$52,000) in the Cumulative Capital Improvement Fund, Six Hundred Thousand Dollars (\$600,000) in the County General Fund, and Six Thousand Seven Hundred Forty-One Dollars (\$6,741) in the County Grants Fund for purposes of the Marion Superior Court.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.06(f) of the City-County Annual Budget for 2009 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Marion Superior Court to fund the following: conference attendance, increased mediation costs, and additional personnel costs (\$31,500), financed by an additional appropriation in the Alternative Dispute Resolution Fund; payroll software and computers (\$52,000), financed by a transfer between characters in the Cumulative Capital Improvement Fund; the prepayment of 2010 Guardian Ad Litem obligations and other 2010 obligations (\$600,000), financed by a transfer between characters in the County General Fund; and a court recording system for the Truancy Court (\$6,741), financed by a transfer in the Juvenile Truancy Grant.

SECTION 2. The sum of Six Hundred Ninety Thousand Two Hundred Forty-One Dollars (\$690,241) be, and the same appropriated for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4, where applicable.

SECTION 3. The following increased appropriation is hereby approved:

<u>MARION SUPERIOR COURT</u>	<u>COUNTY GENERAL FUND</u>
1. Personal Services	0
2. Supplies	0
3. Other Services and Charges	600,000
4. Capital Outlay	<u>0</u>
TOTAL INCREASE	600,000

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<u>MARION SUPERIOR COURT</u>	<u>CUMULATIVE CAPITAL IMPROVEMENT FUND</u>
1. Personal Services	0
2. Supplies	0
3. Other Services and Charges	0
4. Capital Outlay	<u>52,000</u>
TOTAL INCREASE	52,000

<u>MARION SUPERIOR COURT</u>	<u>ALTERNATIVE DISPUTE RESOLUTION FUND</u>
1. Personal Services	9,000
2. Supplies	0
3. Other Services and Charges	22,500
4. Capital Outlay	<u>0</u>
TOTAL INCREASE	31,500

<u>MARION SUPERIOR COURT</u>	<u>COUNTY GRANTS FUND</u>
1. Personal Services	0
2. Supplies	0
3. Other Services and Charges	0
4. Capital Outlay	<u>6,741</u>
TOTAL INCREASE	6,741

SECTION 4. The said increased appropriation is funded by the following reductions:

<u>MARION SUPERIOR COURT</u>	<u>COUNTY GENERAL FUND</u>
1. Personal Services	600,000
2. Supplies	0
3. Other Services and Charges	0
4. Capital Outlay	<u>0</u>
TOTAL REDUCTION	600,000

<u>MARION SUPERIOR COURT</u>	<u>CUMULATIVE CAPITAL IMPROVEMENT FUND</u>
1. Personal Services	0
2. Supplies	0
3. Other Services and Charges	52,000
4. Capital Outlay	<u>0</u>
TOTAL REDUCTION	52,000

<u>MARION SUPERIOR COURT</u>	<u>COUNTY GRANTS FUND</u>
1. Personal Services	5,741
2. Supplies	1,000
3. Other Services and Charges	0
4. Capital Outlay	<u>0</u>
TOTAL REDUCTION	6,741

	<u>ALTERNATIVE DISPUTE RESOLUTION FUND</u>
Unappropriated Unencumbered	
Alternative Dispute Resolution Fund	<u>31,500</u>
TOTAL REDUCTION	31,500

SECTION 5. In accordance with section 151-64 of the revised code of the Consolidated City and County, the following fund balance information is provided:

The 2009 ending fund balance for the Alternative Dispute Resolution Fund, as depicted in the 2009 budget ordinance (FO 54, 2008 page 107) was estimated to be \$155,030. The appropriation authorized in this ordinance will reduce the fund balance by \$31,500.

SECTION 6. Except to the extent of matching funds approved in the ordinance, the council does not intend to use the revenues from any local tax regardless of source to supplement or extend the appropriations for the agencies or projects authorized by this ordinance. The supervisor of the agency or project, or both, and the controller are directed to notify in writing the city-county council immediately upon receipt of any information that the agency or project is, or may be, reduced or eliminated.

SECTION 7. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

SPECIAL ORDERS - FINAL ADOPTION

PROPOSAL NO. 371, 2009. Councillor Speedy reported that the Community Affairs Committee heard Proposal No. 371, 2009 on October 14, 2009. The proposal, sponsored by Councillors Hunter, Mansfield, Malone and Evans, amends the Code with respect to nonsmoking areas. By a 4-2 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended.

President Cockrum stated that members have a couple of amendments before them, and he would like to take the longer amendment first. Councillor Hunter stated that he would like to present his amendment, as a sponsor of the proposal, first. President Cockrum said that he has recognized Councillor Oliver first as the author of the lengthier amendment. Councillor Mansfield asked if it is not customary to first recognize the sponsors of the proposal for comment after the committee report. President Cockrum said that the amendments may preclude some comment and allow for expedition of the process.

Councillor B. Mahern asked what the rules are with regard to considering amendments and in what order they are considered. President Cockrum said that it is simply his discretion, he believes. General Counsel Robert Elrod stated that whoever has the floor may propose an amendment, and therefore, if the President first recognizes Councillor Oliver, then he would be allowed to offer his amendment first, because he has the floor.

Councillor Oliver moved to amend Proposal No. 371, 2009 to include all bars and private clubs under the ban, but exempt bowling alleys. Hearing no second, the motion failed.

Councillor Hunter stated that there are many different arguments for and against this smoking ban, including an endorsement by the Chamber of Commerce and the Indiana Black Expo. He made the following motion:

Mr. President:

I move to amend Proposal No. 371, 2009, as amended in committee, as follows:

In SECTION 1, Sec. 616-204, to restore the original language in the introduced version of the proposal, item (h), changing the percentage in sub-item (3) to 85% instead of 66%, to read as follows:

(h) "Retail Tobacco Store" means a retail store:

- (1) utilized primarily for the sale of tobacco and tobacco-related products including, but not limited to, cigarettes, cigars, tobacco, pipes, cigarette paper, and lighters;
- (2) that is not licensed for the consumption of meals or alcoholic beverages on the premises or operated in conjunction with another business that is licensed for the on-premises consumption of meals or alcoholic beverages; and
- (3) in which the sale of tobacco and tobacco-related products accounts for not less than 85% of the store's gross sales.

"Retail Tobacco Store" does not include a tobacco department of a larger commercial establishment such as a grocery store, department store, or discount store.

and renumbering the paragraphs in that section consecutively, and

In SECTION 2, Sec. 616-204, to restore exemption item “(4) Retail tobacco stores” by removing the strike-through in that paragraph, and by restoring exemption item (10) as per the originally introduced version of the proposal to read as follows:

(10) Any business that:

- a. Is exempt from federal income taxation under 26 U.S.C. § 501(c);
- b. Is a “club” as that term is defined by Ind. Code § 7.1-3-20-1, or a “fraternal club” as that term is defined by Ind. Code § 7.1-3-20-7;
- c. Holds a beer, liquor, or wine retailer’s permit under the laws of this state; and
- d. Provides food or alcoholic beverages only to its bona fide members and their guests.

and renumbering the paragraphs in that section consecutively.

Councillor Smith seconded the motion.

Councillor Malone said that it is probably incorrect to include “fraternal club” as a subsection of (c). Mr. Elrod said that it is already a subsection.

Councillor Brown asked if this takes out tobacco stores where adults enter to purchase tobacco. Councillor Hunter replied in the affirmative. Councillor Brown asked if it also exempts places like the Veterans of Foreign Wars (VFW) lodges and American Legion Hall. Mr. Elrod said if they are under the definition of the liquor law, they would be covered. Councillor Brown asked how many this amendment covers. Councillor Hunter said that he does not have the information, but can get it.

Councillor D. Mahern asked for consent to abstain from voting on the amendment to avoid the appearance of a conflict of interest due to a previously scheduled fundraiser. Consent was given.

The motion to amend failed on the following roll call vote; viz:

*13 YEAS: Bateman, Brown, Evans, Gray, Hunter, Mahern (B), Malone, Mansfield, Moriarty
Adams, Nytes, Sanders, Smith, Vaughn
13 NAYS: Cain, Cardwell, Cockrum, Coleman, Day, Lewis, Lutz, McHenry, McQuillen,
Oliver, Plowman, Scales, Speedy
1 NOT VOTING: Mahern (D)
2 ABSENT: Minton-McNeill, Pfisterer*

Councillor D. Mahern asked for consent to abstain from voting on the proposal to avoid the appearance of a conflict of interest due to a previously scheduled fundraiser. Consent was given.

Councillor B. Mahern stated that a compromise proposal was passed in 2005, and many have asked why this must be done, because the compromise is working. He said that many opponents say the Council should wait, but they are wrong. He said that second-hand smoke is a serious health problem and there are no safe levels of second-hand smoke. He said that surrounding cities have initiated comprehensive smoking bans, and Indianapolis needs to follow suit and protect its workers. More than 70% of the population lives under bans, and businesses have not seen a decrease in sales as has been testified. He said that the playing field is not level, and the current ban causes establishments to choose whether to be a bar or a family restaurant. He said that freedoms should not jeopardize the liberty or public safety of others. He said that he supports the proposal, and waiting any longer will result in more hazardous health conditions.

Councillor Coleman said that people that enter bars are adults and can make adult decisions. These individuals can make their own decisions for their own public safety and health, and the government should stop telling people how to live their lives.

Councillor Mansfield said that she was one of the original co-sponsors on the current smoking ban, and the intent was for a comprehensive ban at that time. She said that other cities followed their lead and even went further with comprehensive bans. She said that out of the top 20 cities, Indianapolis is only one of the two who have not gone smoke-free, and she feels this puts Indianapolis at a disadvantage in attracting businesses, new residents and development. She said that not all people can truly choose where they can work, and in the current economic times, people are lucky to get any job and cannot be so choosy. She said that she would hope compassion would be shown to these workers, and she encouraged all to support the proposal as a step in the right direction.

Councillor Evans said that he is disappointed that the Mayor could not show leadership on this issue, and he is disappointed in his caucus members in not supporting the proposal.

Councillor Malone said that she is committed to this effort for personal reasons, watching her mother and uncle die from second-hand smoke. She said that she is opposed to limiting personal freedoms, but there is no constitutional right to smoke. It is not a civil right or protected class, and is not a right if it infringes on others' rights. She said that she supports the proposal and urged her colleagues to do the same.

Councillor Brown said that 98% of establishments were impacted by the current ban, and he asked if there are statistics showing the number of workers that were impacted. Seeing no response, Councillor Brown asked if there are any statistics showing the number of workers that will further be affected. Councillor B. Mahern said that if they affect one worker it is worth it. Councillor Brown said that through education, he continues to support non-smoking initiatives, but he would like to see an accounting of the percentage of reduction in second hand smoke deaths since the ban to warrant a further ban. Councillor Hunter said that second-hand smoke deaths are down across the country by 62 million.

Councillor Sanders said that she agrees with Councillor B. Mahern's thoughts regarding one worker being affected being too many. She said that freedom ends when a person's actions inflict harm on another person. She said that it is extremely important to recognize the issues the city's low-wage workers face.

Councillor B. Mahern said that the current ban leaves bar workers unprotected. As the areas where people could publicly smoke were reduced, smokers gravitated to the bars and other areas where smoking is still allowed, and therefore, those places are probably even smokier today. He said that the risk those workers face is even higher today.

Councillor Gray asked for consent to abstain from voting on Proposal No. 371, 2009 to avoid the appearance of a conflict of interest. Consent was given.

Councillor Hunter moved, seconded by Councillor Mansfield, for adoption. Proposal No. 371, 2009 failed due to an indecisive on the following roll call vote; viz:

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12 YEAS: Bateman, Evans, Hunter, Lewis, Mahern (B), Malone, Mansfield, Moriarty Adams, Nytes, Sanders, Smith, Vaughn
13 NAYS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Lutz, McHenry, McQuillen, Oliver, Plowman, Scales, Speedy
2 NOT VOTING: Gray, Mahern (D)
2 ABSENT: Minton-McNeill, Pfisterer

Councillor Plowman moved, seconded by Councillor McQuillen, to table Proposal No. 371, 2009. Councillor Sanders asked if this motion is allowable according to Council Rules. Mr. Elrod said that it is allowable. The motion to table Proposal No. 371, 2009 carried on the following roll call vote; viz:

14 YEAS: Brown, Cain, Cardwell, Cockrum, Coleman, Day, Lutz, Mahern (D), McHenry, McQuillen, Oliver, Plowman, Scales, Speedy
13 NAYS: Bateman, Evans, Gray, Hunter, Lewis, Mahern (B), Malone, Mansfield, Moriarty Adams, Nytes, Sanders, Smith, Vaughn
2 ABSENT: Minton-McNeill, Pfisterer

Councillor Hunter asked if a majority vote is needed to table and if the vote should not also be ruled as indecisive. Mr. Elrod said that a simple majority of those present is all that is needed, and not a majority of total members. President Cockrum stated that the proposal is therefore tabled and the vote stands. *{Clerk's Note: At the November 9, 2009 City-County Council meeting, the chair's ruling was appealed and overturned, and the vote was ruled indecisive by a 16-12 vote of the full Council. See the November 9, 2009 Journal of Proceedings for specific vote results.}*

PROPOSAL NO. 372, 2009. Councillor Vaughn reported that the Public Safety and Criminal Justice Committee heard Proposal No. 372, 2009 on October 7, 2009. The proposal, sponsored by Councillors Moriarty Adams and Pfisterer, approves a transfer of \$5,000 in the 2009 Budget of the Marion County Circuit Court (County General Fund) to purchase general office supplies. By a 6-0 vote, the Committee reported the proposal to the Council with the recommendation that it do pass. Councillor Vaughn moved, seconded by Councillor Plowman, for adoption. Proposal No. 372, 2009 was adopted on the following roll call vote; viz:

23 YEAS: Bateman, Brown, Cain, Cardwell, Cockrum, Coleman, Day, Evans, Gray, Hunter, Lewis, Mahern (B), Malone, Mansfield, McHenry, McQuillen, Moriarty Adams, Nytes, Plowman, Sanders, Scales, Speedy, Vaughn
1 NAY: Lutz
3 NOT VOTING: Mahern (D), Oliver, Smith
2 ABSENT: Minton-McNeill, Pfisterer

Proposal No. 372 2009 was retitled FISCAL ORDINANCE NO. 39, 2009, and reads as follows:

CITY-COUNTY FISCAL ORDINANCE NO. 39, 2009

A FISCAL ORDINANCE amending the City-County Annual Budget for 2009 (City-County Fiscal Ordinance No. 54, 2008) by appropriating Five Thousand Dollars (\$5,000) in the County General Fund for purposes of the Marion County Circuit Court.

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. To provide for expenditures the necessity for which has arisen since the adoption of the annual budget, Section 1.06(e) of the City-County Annual Budget for 2009 be, and is hereby, amended by the increases and reductions hereinafter stated for purposes of the Marion County Circuit Court to fund the following: the purchase of paper products and other general office supplies to support the general

administration of the court for the remainder of 2009, financed by a transfer between characters in the court's County General Fund appropriations.

SECTION 2. The sum of Five Thousand Dollars (\$5,000) be, and the same appropriated for the purposes as shown in Section 3 by reducing the accounts as shown in Section 4, where applicable.

SECTION 3. The following increased appropriation is hereby approved:

<u>MARION COUNTY CIRCUIT COURT</u>	<u>COUNTY GENERAL FUND</u>
1. Personal Services	0
2. Supplies	5,000
3. Other Services and Charges	0
4. Capital Outlay	0
TOTAL INCREASE	5,000

SECTION 4. The said increased appropriation is funded by the following reductions:

<u>MARION COUNTY CIRCUIT COURT</u>	<u>COUNTY GENERAL FUND</u>
1. Personal Services	5,000
2. Supplies	0
3. Other Services and Charges	0
4. Capital Outlay	0
TOTAL REDUCTION	5,000

SECTION 5. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

NEW BUSINESS

Councillor Coleman said that he saw a list of those appointed to the committee to discuss funding solutions for the Capital Improvement Board and he is disappointed his request was not taken into consideration to appoint him as a member to that committee.

Councillor Cain stated that the prayer caucus which meets before every Council meeting is now a year old and several members take time each meeting to pray over those items they are making decisions about. Councillor Bateman invited all to attend this bi-partisan caucus.

President Cockrum reminded Councillors of the Council wiener roast this weekend.

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Sanders stated that she had been asked to offer the following motion for adjournment by:

- (1) All Councillors in memory of Melissa Walker; and
- (2) Councillor Cain in memory of George A. Barrett ; and
- (3) Councillor Pfisterer in memory of Michael F. Callon and Robert Kleis, Sr.; and
- (4) Councillor McQuillen in memory of David J. Allen; and
- (5) Councillor Gray in memory of Florence E. Howard and
- (6) Councillor Hunter in memory of Susan J. McConnell.

Councillor Sanders moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Melissa Walker, George A. Barrett, Michael F. Callon, Robert Kleis, Sr., David J. Allen, Florence E. Howard, and Susan J.

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McConnell. She respectfully asked the support of fellow Councillors. She further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 8:24 p.m.

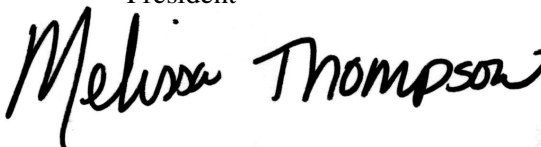
We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 26th day of October, 2009.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.



President

ATTEST:



Clerk of the Council

(SEAL)